



7

Zoning Case No. C14-05-0198

RESTRICTIVE COVENANT

OWNER: 2101 W. Ben White Boulevard, Inc., a Texas corporation

ADDRESS: 856 Shovel Mountain Rd., Cypress Mill, Texas 78663

OWNER: Winona Fielder

ADDRESS: 4105 Manchaca Road, Austin, Texas 78704

CONSIDERATION: Ten and No/100 Dollars (\$10.00) and other good and valuable consideration paid by the City of Austin to the Owner, the receipt and sufficiency of which is acknowledged.

PROPERTY: A 42,209 square foot tract of land, more or less, out of the James Trammel 1/3 League, Abstract No. 769, in Travis County, the tract being more particularly described by metes and bounds in Exhibits "A" attached and incorporated into this covenant.

WHEREAS, the Owners of the Property and the City of Austin have agreed that the Property should be impressed with certain covenants and restrictions;

NOW, THEREFORE, it is declared that the Owners of the Property, for the consideration, shall hold, sell and convey the Property, subject to the following covenants and restrictions impressed upon the Property by this restrictive covenant. These covenants and restrictions shall run with the land, and shall be binding on the Owners of the Property, its heirs, successors, and assigns.

1. A site plan or building permit for the Property may not be approved, released, or issued if the site plan does not provide for the planting of Class I native trees each having a minimum caliper of 2 inches. The trees must be spaced 20 feet apart on center. A Class I native tree is defined under Section 3.5.1 of the Environmental Criteria Manual.
2. If any person or entity shall violate or attempt to violate this agreement and covenant, it shall be lawful for the City of Austin to prosecute proceedings at law or in equity against such person or entity violating or attempting to violate such agreement or covenant, to prevent the person or entity from such actions, and to collect damages for such actions.
3. If any part of this agreement or covenant is declared invalid, by judgment or court order, the same shall in no way affect any of the other provisions of this agreement, and such remaining portion of this agreement shall remain in full effect.
4. If at any time the City of Austin fails to enforce this agreement, whether or not any violations of it are known, such failure shall not constitute a waiver or estoppel of the right to enforce it.
5. This agreement may be modified, amended, or terminated only by joint action of both (a) a majority of the members of the City Council of the City of Austin, and (b) by the owner(s) of the Property subject to the modification, amendment or termination at the time of such modification, amendment or termination.

6-22-06
91

EXECUTED this the 13 day of June, 2006.

OWNER:

**2101 W. Ben White Boulevard, Inc.
a Texas corporation**

By: Avalon Burrows
Avalon Burrows,
Secretary

OWNER:

Winona Fielder

Avalon Burrows
Winona Fielder
ATTORNEY-IN-FACT for
Winona Fielder

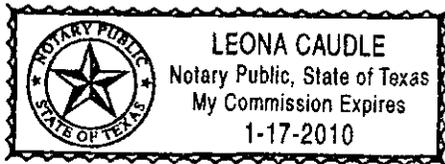
APPROVED AS TO FORM:


Assistant City Attorney
City of Austin

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the 13th day of June, 2006, by Avalon Burrows, Secretary of 2101 W. Ben White Boulevard, Inc., a Texas corporation, on behalf of the corporation.

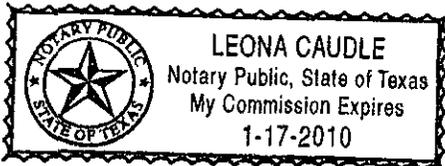


Leona Caudle
Notary Public, State of Texas

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the 13th day of June, 2006, by ~~Winona Fiedler~~ by Avalon Burrows, as Attorney-in-fact for Winona Fiedler



Leona Caudle
Notary Public, State of Texas

After Recording, Please Return to:
City of Austin
Department of Law
P. O. Box 1088
Austin, Texas 78767
Attention: Diana Minter, Paralegal

EXHIBIT A
CARSON AND BUSH
PROFESSIONAL SURVEYORS, INC.
1904 FORTVIEW ROAD
AUSTIN, TX 78704
TELEPHONE: (512) 442-0990
FACSIMILE: (512) 442-1084

OCTOBER 11, 2005

FIELD NOTE DESCRIPTION OF 42,209 SQUARE FEET OF LAND OUT OF THE JAMES TRAMMEL 1/3 LEAGUE, ABSTRACT NO. 769 IN TRAVIS COUNTY, TEXAS BEING A PORTION OF THAT CERTAIN (2.92 ACRE) TRACT OF LAND AS CONVEYED TO ALFRED E. FIELDER BY DEED RECORDED IN VOLUME 2984, PAGE 1856 OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS, AND A PORTION OF THAT CERTAIN (2.87 ACRE) TRACT OF LAND AS CONVEYED TO 2101 W. BEN WHITE BOULEVARD, INC. BY DEED RECORDED IN VOLUME 8111, PAGE 714 OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS;

BEGINNING at a ½" iron pipe found in the Northeasterly right-of-way line of Redd Street, at the Southwest corner of that certain (2.87 acre) tract of land as conveyed to the 2101 W. Ben White Boulevard, Inc. by deed recorded in Volume 8111, Page 714 of the Deed Records of Travis County, Texas, same being a point in the Southeasterly line of Lot 1, Block H, Western Trails Section 3, a Subdivision in Travis County, Texas according to the map or plat thereof recorded in Volume 8, Page 73 of the Plat Records of Travis County, Texas and the Southwest corner and **PLACE OF BEGINNING** of the herein described tract, from which a ½" iron pipe found in the Southwest right-of-way line of Redd Street at the Northwest corner of that certain (5.89 acre) tract of land as conveyed to the City of Austin by deed recorded in Volume 1326, Page 149 of the Deed Records of Travis County, Texas, same being the Northeast corner of Lot 5, Block G, Western Trails Section 2, a subdivision in Travis County, Texas according to the map or plat thereof recorded in Volume 8, Page 73 of the Plat Records of Travis County, Texas, bears, S 29 deg 26'17" W 59.00 ft.

THENCE leaving the Northeasterly right-of-way line of Redd Street with the common line of said Lot 1 and 2101 W. Ben White Boulevard, Inc. tract, **N 29 deg 27'24" E**, passing a ½" iron rod found at a distance of 69.82 ft. for the Northeast corner of said Lot 1, same being the Southeast corner of Lot 2, Block H, Western Trails Section 2, continuing along said bearing for a total distance of **85.00 ft.** to a point for the Northwest corner of the herein described tract;

THENCE crossing the interior of said 2101 W. Ben White Boulevard, Inc. (2.87 acre) tract, **S 60 deg 15'39" E 248.08 ft.** to a point in the Southeast line of said 2101 W. Ben White Boulevard, Inc. (2.87 acre) tract, same being a point in the Northwest line of that certain (2.92 acre) tract of land as conveyed to Alfred E. Fielder by deed recorded in Volume 2981, Page 1856 of the Deed Records of Travis County, Texas;

THENCE crossing the interior of said Fielder (2.92 acre) tract, **S 60 deg 15'39" E 248.33 ft.** to a point in the Southeast line of said Fielder (2.92 acre) tract, same being a point in the Northwest right-of-way line of Cactus Lane for the Northeast corner of the herein described tract;

THENCE with the Northwest right-of-way line of Cactus Lane, same being the Southeast line of said Fielder (2.92 acre) tract, **S 29 deg 12'30" W 85.00 ft.** to a point in the Southeast line of said Fielder (2.92 acre) tract, same being the record Northeast corner of that certain tract of land as conveyed to the City of Austin by Street Deed recorded in Volume 3011, Page 943 of the Deed Records of Travis County, Texas for the Southeast corner of the herein described tract, from which a 1" iron pipe found bears, S 29 deg 12'30" W 10.00 ft. and S 60 deg 16' E 2.20 ft.;

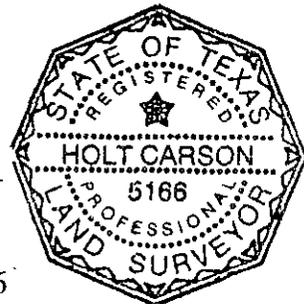
THENCE crossing the interior of said Fielder (2.92 acre) tract with the Northeasterly right-of-way line of Redd Street and with the record Northeast line of said City of Austin tract, **N 60 deg 15'39" W 248.33 ft.** to a point in the Northwest line of said Fielder (2.92 acre) tract, for the Northwest corner of said City of Austin tract, also being the Southeast corner of said 2101 W. Ben White Boulevard, Inc. (2.87 acre) tract;

THENCE with the Northeast right-of-way line of Redd Street, same being the Southwest line of said 2101 W. Ben White Boulevard, Inc. (2.87 acre) tract, **N 60 deg 15'39" W 248.44 ft.** to the **PLACE OF BEGINNING**, containing **42,209 Square Feet** of land.

Surveyed: August 17, 2005

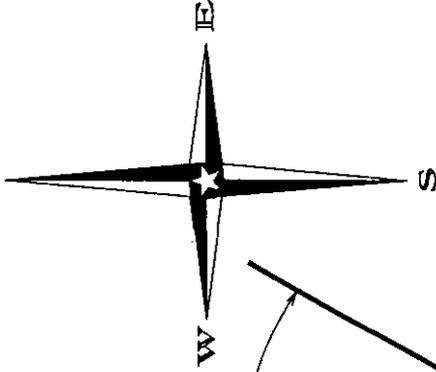


Holt Carson
Registered Professional Land Surveyor No. 5166



See accompanying map no. C 747090

SCALE: 1" = 100'



2101 W BEN WHITE BOULEVARD, INC.
(2.87 ACRES)
(N29°39'E 503.90')
VOLUME 281 PAGE 1856

ALFRED E. FIEDLER
(2.92 ACRES)
(S29°30'W 514.87')
VOLUME 281 PAGE 1856

- Legend**
- Wire Fence
 - ⊙ 1/2" Iron Rod Found
 - ⊙ 1/2" Iron Pipe Found
 - ⊕ Fire Hydrant
 - ⊕ Sign
 - Wood Board Fence
 - Overhead Utility Line
 - (Record Bearing and Distance)

ALFRED E. FIEDLER
WESTERN TRIALS
SECTION 2
VOLUME 281 PAGE 1856

LOT 1
LOT 2
LOT 3
LOT 4
LOT 5
LOT 6
LOT 7
LOT 8
LOT 9
LOT 10
LOT 11
LOT 12
LOT 13
LOT 14
LOT 15
LOT 16
LOT 17
LOT 18
LOT 19
LOT 20
LOT 21
LOT 22
LOT 23
LOT 24
LOT 25
LOT 26
LOT 27
LOT 28
LOT 29
LOT 30
LOT 31
LOT 32
LOT 33
LOT 34
LOT 35
LOT 36
LOT 37
LOT 38
LOT 39
LOT 40
LOT 41
LOT 42
LOT 43
LOT 44
LOT 45
LOT 46
LOT 47
LOT 48
LOT 49
LOT 50
LOT 51
LOT 52
LOT 53
LOT 54
LOT 55
LOT 56
LOT 57
LOT 58
LOT 59
LOT 60
LOT 61
LOT 62
LOT 63
LOT 64
LOT 65
LOT 66
LOT 67
LOT 68
LOT 69
LOT 70
LOT 71
LOT 72
LOT 73
LOT 74
LOT 75
LOT 76
LOT 77
LOT 78
LOT 79
LOT 80
LOT 81
LOT 82
LOT 83
LOT 84
LOT 85
LOT 86
LOT 87
LOT 88
LOT 89
LOT 90
LOT 91
LOT 92
LOT 93
LOT 94
LOT 95
LOT 96
LOT 97
LOT 98
LOT 99
LOT 100

42,209 SQUARE FEET

REDD STREET (R.O.W. VARIES)

CACTUS LANE (60' R.O.W.)
(S29°30'W 514.87')

SKETCH TO ACCOMPANY FIELD NOTE DESCRIPTION OF
42209 SQUARE FEET OF LAND OUT OF THE JAMES TRAMMEL 1/3 LEAGUE, ABSTRACT NO. 769
IN TRAVIS COUNTY, TEXAS, BEING A PORTION OF THAT CERTAIN (2.92 ACRE) TRACT OF LAND
AS CONVEYED TO ALFRED E. FIEDLER BY DEED RECORDED IN VOLUME 2984, PAGE 1856 OF
THE DEED RECORDS OF TRAVIS COUNTY, TEXAS, AND A PORTION OF THAT CERTAIN (2.87
ACRE) TRACT OF LAND AS CONVEYED TO 2101 W. BEN WHITE BOULEVARD, INC. BY DEED
RECORDED IN VOLUME 811, PAGE 714 OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS.



PREPARED: OCTOBER 11, 2005

BY *Holt Carson*

Holt Carson
Registered Professional Land Surveyor No. 5166

CARSON AND BUSH
PROFESSIONAL SURVEYORS, INC.
1904 FORTVIEW ROAD
AUSTIN, TX 78704
(512) 442-0990

AUSTIN PUBLIC UTILITIES
(LAND ABLES)
VOLUME 350 PAGE 4530

BITY OF AUSTIN
STREET DEED
VOLUME 2011 PAGE 943

BITY OF AUSTIN
(LAND ABLES)
VOLUME 1829 PAGE 1459

56708000E 576.73'
(S80°09'E 586.70')
Bearing Boats

60°15'39"W
(N80°05'W) CURB

529°12'30"W
85.00'

248.33'
248.33'
(248.33')

LOT 1
LOT 2

SAFEBWAY ADDITION J.D. 12
VOLUME 78 PAGE 202

© copyright 2005 C 747090

FILED AND RECORDED

OFFICIAL PUBLIC RECORDS

Dana DeBeauvoir

2006 Jun 28 03:48 PM

2006121963

BENAVIDESV \$40.00

DANA DEBEAUVOIR COUNTY CLERK

TRAVIS COUNTY TEXAS

Recorders Memorandum-At the time of recordation this instrument was found to be inadequate for the best reproduction, because of illegibility, carbon or photocopy, discolored paper, etc. All blockouts, additions and changes were present at the time the instrument was filed and recorded.